

the product is made available for commercial sale, a non-proprietary technical description of the foreign products for which the component, source code or toolkit are being used (e.g., brochures, other documentation, descriptions or other identifiers of the final foreign product; the algorithm and key lengths used; general programming interfaces to the product, if known; any standards or protocols that the foreign product adheres to; and source code, if available.).

(4) Exporters of encryption commodities, software and components which were previously classified under License Exception ENC, or which have been licensed for export under an Encryption Licensing Arrangement, must comply with the reporting requirements of this section.

(5) You must submit reports required under this section semi-annually to BXA, unless otherwise provided in this paragraph (e)(5). For exports occurring between January 1 and June 30, a report is due no later than August 1 of that year. For exports occurring between July 1 and December 31, a report is due no later than February 1 the following year. Reports must include the classification or other authorization number. These reports must be provided in electronic form to BXA; suggested file formats for electronic submission include spreadsheets, tabular text or structured text. Exporters may request other reporting arrangements with BXA to better reflect their business models. Reports should be sent electronically to crypt@bxa.doc.gov, or disks and CDs can be mailed to the following addresses:

(i) Department of Commerce, Bureau of Export Administration, Office of Strategic Trade and Foreign Policy Controls, 14th Street and Pennsylvania Ave., N.W., Room 2705, Washington, D.C. 20230, Attn: Encryption Reports.

(ii) A copy of the report should be sent to: Attn: ENC Encryption Request Coordinator, 9800 Savage Road, Suite 6131, Ft. Meade, MD 20755–6000.

[65 FR 62605, Oct. 19, 2000]

§ 740.18 Agricultural commodities (AGR).

(a) *Eligibility requirements.* License Exception AGR permits the export of

agricultural commodities to Cuba, as well as the reexport of U.S. origin agricultural commodities to Cuba, provided your transaction meets *all* of the following criteria:

(1) The commodity meets the definition of “agricultural commodities” in part 772 of the EAR;

(2) The commodity is EAR99. You must have an official commodity classification of EAR99 from BXA for fertilizers, western red cedar and live horses before you submit a notification under this license exception. See § 748.3 of the EAR for information on how to submit a commodity classification request;

(3) The export or reexport is made pursuant to a written contract, except for donations and commercial samples which are not subject to this contract requirement;

(4) The export or reexport is made within 12 months of the signing of the contract or within 12 months of notification that no objections were raised (if no contract is required). In the case of multiple partial shipments, all such shipments must be made within the 12 months of the signing of the contract or within 12 months of notification that no objections were raised (if no contract is required); and

(5) You notify BXA prior to exporting or reexporting according to the procedures set forth in paragraph (c) of this section. If you intend to engage in multiple shipments during the one-year period after the signing of the contract, you need only notify BXA prior to the first shipment.

(b) *Restrictions.* (1) No export or reexport to any individual or entity designated as a Specially Designated Terrorist or Foreign Terrorist Organization may be made under License Exception AGR (see part 744 of the EAR).

(2) No export or reexport to or for use in biological, chemical, nuclear warfare or missile proliferation activities may be made under License Exception AGR (see part 744 of the EAR).

(3) No U.S.-owned or controlled foreign firm may export from abroad to Cuba a foreign produced agricultural commodity containing more than 10% U.S.-origin content. Such U.S.-owned or controlled foreign firms require a specific license from BXA as well as

the Department of the Treasury's Office of Foreign Assets Control (OFAC). Transactions not subject to the EAR (under 10% U.S.-origin content) require a license from OFAC.

(c) *Prior notification.* (1) *General requirement.* You must notify BXA prior to any export or reexport (or prior to the first of multiple shipments) under License Exception AGR.

(2) *Procedures.* You must provide prior notification of exports and reexports under License Exception AGR by submitting a completed Multipurpose Application Form (BXA-748P) or its electronic equivalent. The following blocks must be completed, as appropriate, on the Multipurpose Application Form: Blocks 1, 2, 3, 4, 5 (by marking box 5 "Other"), 14, 16, 17, 18, 19, 21, 22 (a), (e), (f), (g), (h), (i), (j), 23, and 25 according to the instructions described in Supplement No. 1 to part 748 of the EAR. If your commodity is fertilizer, western red cedar or live horses, you must confirm that BXA has previously classified your commodity as EAR99 by placing the Commodity Classification Automatic Tracking System (CCATS) number in block 22(d). BXA will not initiate the registration of an AGR notification unless all requested information on the Multipurpose Application form is complete.

(3) *Action by BXA.* Within two business days of the registration of the AGR notification, BXA will refer the notification for interagency review, or if necessary return the notification without action (e.g., if the information provided is incomplete). Registration is defined as the point at which the notification is entered into BXA's electronic system.

(4) *Review by other departments or agencies.* The Departments of Defense, State, and other agencies, as appropriate, may review the AGR notification. BXA must receive department or agency objections within nine business days of the referral. Unlike the provisions described in § 750.4(b) of the EAR, there are no provisions for stopping the processing time of the AGR notification. If, within 11 business days after the date of registration, any reviewing agency provides a written objection that the recipient may promote international terrorism or the transaction

raises nonproliferation concerns, you may not use License Exception AGR. In such cases, BXA will notify you that a license is required for the export or reexport. BXA will then process the AGR notification as a license application in accordance with the provisions described in § 750.4 of the EAR, and the licensing policies set forth in the EAR. At this time, BXA may request additional information. When BXA confirms that no agency has raised an objection within eleven business days (as described in paragraph (c)(5) of this section), you may proceed with the transaction provided that you satisfy all other requirements of License Exception AGR, including the requirement to have a written contract prior to any shipment (unless a donation or commercial sample). (Note that the fact that you have been advised that no agency has objected to the transaction does not exempt you from other licensing requirements under the EAR, such as those based on knowledge of a prohibited end-use or end-user as referenced in general prohibition five (part 736 of the EAR) and set forth in part 744 of the EAR.)

(5) *Status of pending AGR notification requests.* You must contact BXA's System for Tracking Export License Applications ("STELA") at (202) 482-2752 for status of your pending AGR notification. (See § 750.5 of the EAR for procedures to access information on STELA.) STELA will provide the date of registration of the AGR notification. If no department or agency objection is raised within 11 business days, STELA will, on the twelfth business day following the date of registration, provide you with confirmation of that fact. You may not proceed with your shipment unless you confirm with STELA that no objection has been raised. BXA will subsequently issue written confirmation to you. If an objection is raised, STELA will indicate that a license is required. The AGR notification will then be processed as a license application. In addition, BXA may provide notice of an objection by telephone, fax, courier service, or other means.

(d) *Donations.* (1) Donations of agricultural commodities are eligible for

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export and reexport to Cuba under License Exception AGR, provided the transaction meets the requirements and procedures of this license exception (except the written contract requirement).

(2) Donations of food items to non-governmental organizations (NGOs)

and individuals in Cuba may also be eligible for License Exception GFT. See §740.12 for eligibility requirements of gift parcels and humanitarian donations under License Exception GFT.

[66 FR 36681, July 12, 2001]

SUPPLEMENT NO. 1 TO PART 740

COUNTRY GROUP A

Country		Missile technology control regime	Australia group	Nuclear suppliers group
	[A:1]	[A:2]	[A:3]	[A:4]
Argentina		X	X	X
Australia	X	X	X	X
Austria ¹		X	X	X
Belgium	X	X	X	X
Brazil		X		X
Bulgaria				X
Canada	X	X	X	X
Cyprus			X	
Czech Republic			X	X
Denmark	X	X	X	X
Finland ¹		X	X	X
France	X	X	X	X
Germany	X	X	X	X
Greece	X	X	X	X
Hong Kong ¹				
Hungary		X	X	X
Iceland		X	X	
Ireland ¹		X	X	X
Italy	X	X	X	X
Japan	X	X	X	X
Korea, South ¹			X	X
Latvia				X
Luxembourg	X	X	X	X
Netherlands	X	X	X	X
New Zealand ¹		X	X	X
Norway	X	X	X	X
Poland			X	X
Portugal	X	X	X	X
Romania			X	X
Russia		X		X
Slovakia			X	X
South Africa		X		X
Spain	X	X	X	X
Sweden ¹		X	X	X
Switzerland ¹		X	X	X
Turkey	X		X	
Ukraine				X
United Kingdom	X	X	X	X
United States	X	X	X	X

¹ Cooperating Countries.

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Country Group B

Countries

Afghanistan	Honduras	Seychelles
Algeria	Hong Kong	Sierra Leone
Andorra	Hungary	Singapore
Angola	Iceland	Slovakia
Antigua	India	Slovenia
Argentina	Indonesia	Solomon Islands
Australia	Ireland	Somalia
Austria	Israel	South Africa
Bahamas	Italy	Spain
Bahrain	Jamaica	Sri Lanka
Bangladesh	Japan	Surinam
Barbados	Jordan	Swaziland
Barbuda	Kenya	Sweden
Belgium	Kiribati	Switzerland
Belize	Korea, South	Taiwan
Benin	Kuwait	Tanzania
Bhutan	Lebanon	Thailand
Bolivia	Lesotho	Togo
Bosnia & Herzegovina	Liberia	Tonga
Botswana	Liechtenstein	Trinidad & Tobago
Brazil	Luxembourg	Tunisia
Brunei	Macedonia, the Former Yugoslav Republic of	Turkey
Burkina Faso	Madagascar	Tuvalu
Burma	Malawi	Uganda
Burundi	Malaysia	United Arab Emirates
Cameroon	Maldives	United Kingdom
Canada	Mali	United States
Cape Verde	Malta	Uruguay
Central African Republic	Marshall Islands	Vanuatu
Chad	Mauritania	Vatican City
Chile	Mauritius	Venezuela
Colombia	Mexico	Western Sahara
Comoros	Micronesia, Federated States of	Western Samoa
Congo	Monaco	Yemen
Costa Rica	Morocco	Zaire
Cote d'Ivoire	Mozambique	Zambia
Croatia	Namibia	Zimbabwe
Cyprus	Nauru	
Czech Republic	Nepal	
Denmark	Netherlands	
Djibouti	New Zealand	
Dominica	Nicaragua	
Dominican Republic	Niger	
Ecuador	Nigeria	
Egypt	Norway	
El Salvador	Oman	
Equatorial Guinea	Pakistan	
Eritrea	Palau	
Ethiopia	Panama	
Fiji	Papua New Guinea	
Finland	Paraguay	
France	Peru	
Gabon	Philippines	
Gambia, The	Poland	
Germany	Portugal	
Ghana	Qatar	
Greece	Saint Kitts & Nevis	
Grenada	Saint Lucia	
Guatemala	Saint Vincent	
Guinea	San Marino	
Guinea-Bissau	Sao Tome & Principe	
Guyana	Saudi Arabia	
Haiti	Senegal	

EDITORIAL NOTE 1: At 64 FR 60341, Nov. 5, 1999, Supplement No. 1 to part 740 is amended by removing "Serbia and Montenegro" from the list of "Country Group B" countries and by adding in alphabetical order, "Kosovo (Serbian province of)" and "Montenegro". Changes to this illustration are effective Nov. 5, 1999.

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EDITORIAL NOTE 2: At 65 FR 14859, Mar. 20, 2000, Supplement No. 1 to part 740, Country Group B, is amended by revising “Antiqua” to read “Antigua”. Changes to this illustration are effective Mar. 20, 2000.

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EDITORIAL NOTE 3: At 66 FR 12847, Mar. 1, 2001, Supplement No. 1 to part 740, Country Group B, was amended by removing “Kosovo (Serbian province of)” and “Montenegro” and by adding “Yugoslavia (Serbia and Montenegro), Federal Republic of”. Changes to this illustration are effective Mar. 1, 2001.

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Country Group C

[Reserved]

• COUNTRY GROUP D

Country	[D: 1] National Security	[D: 2] Nuclear	[D: 3] Chemical & Biological	[D: 4] Missile Technology
Afghanistan			X	
Albania	X			
Algeria				
Andorra				
Angola				
Armenia	X		X	
Azerbaijan	X		X	
Bahrain			X	X
Belarus	X		X	
Bulgaria	X		X	
Burma			X	
Cambodia	X			
China (PRC)	X		X	X ¹
Comoros				
Cuba		X	X	
Djibouti				
Egypt			X	X
Estonia	X			
Georgia	X			
India		X	X	X ¹
Iran		X	X	X ¹
Iraq		X	X	X
Israel		X	X	X
Jordan			X	X
Kazakhstan	X		X	
Korea, North		X	X	X ¹
Kuwait			X	X
Kyrgyzstan	X		X	
Laos	X			
Latvia	X			
Lebanon			X	X
Libya		X	X	X
Lithuania	X			
Macau	X		X	X
Micronesia, Federated States of				
Moldova	X		X	
Mongolia	X		X	
Oman			X	X
Pakistan		X	X	X ¹
Qatar			X	X
Romania	X			
Russia	X		X	
Saudi Arabia			X	X
Syria			X	X
Taiwan			X	
Tajikistan	X		X	

• COUNTRY GROUP D—Continued

Country	[D: 1] National Security	[D: 2] Nuclear	[D: 3] Chemical & Biological	[D: 4] Missile Technology
Turkmenistan	X		X	
Ukraine	X		X	
United Arab Emirates			X	X
Uzbekistan	X		X	
Vanuatu				
Vietnam	X		X	
Yemen			X	X

¹ Certain Missile Technology projects have been identified in the following countries:
China—M Series Missiles CSS-2.
India—Agni, Prithvi, SLV-3 Satellite Launch Vehicle, Augmented Satellite Launch Vehicle (ASLV), Polar Satellite Launch Vehicle (PSLV), Geostationary Satellite Launch Vehicle (GSLV).
Iran—Surface-to-Surface Missile Launch, Scud Development Project.
Korea, North—No Dong I, Scud Development Project.
Pakistan—Half Series Missiles.

COUNTRY GROUP E

COUNTRY GROUP E

Country	[E:1] Terrorist sup- porting countries	[E:2] unilateral embar- go ¹
Cuba	X	X
Iran	X	
Iraq	X	
Korea, North	X	
Libya	X	X
Sudan	X	
Syria	X	

¹ In addition to the controls of the EAR that the Bureau of Export Administration administers, note that the Treasury Department's Office of Foreign Assets Control administers:

(a) A *comprehensive embargo* against Cuba, Iran, Iraq, Libya, Sudan, and the Taliban and areas of Afghanistan controlled by the Taliban;

(b) A ban on arms and specified items destined to the National Union for the Total Independence of Angola (UNITA) located in Angola; and

(c) An *embargo against certain individuals and entities*, e.g., Specially Designated Terrorists (SDT). (Note: The Department of State also imposes sanctions on certain individuals and entities, please consult with the Department of State for further information concerning these controls.)

[61 FR 12768, Mar. 25, 1996, as amended at 62 FR 6686, Feb. 12, 1997; 62 FR 25458, May 9, 1997; 62 FR 42048, Aug. 5, 1997; 63 FR 37769, July 14, 1998; 64 FR 28908, May 28, 1999; 65 FR 38151, June 19, 2000; 66 FR 18402, Apr. 9, 2001; 66 FR 42110, Aug. 10, 2001; 66 FR 49524, Sept. 28, 2001]

**SUPPLEMENT NO. 2 TO PART 740—ITEMS
THAT MAY BE DONATED TO MEET
BASIC HUMAN NEEDS UNDER THE HU-
MANITARIAN LICENSE EXCEPTION**

(a) *Health*

Equipment for the Handicapped
Hospital Supplies and Equipment
Laboratory Supplies and Equipment
Medical Supplies and Devices
Medicine-Processing Equipment
Medicines

Vitamins

Water Resources Equipment

Food

Agricultural Materials and Machinery Suit-
ed to Small-Scale Farming OperationsAgricultural Research and Testing Equip-
ment

Fertilizers

Fishing Equipment and Supplies Suited to
Small-Scale Fishing Operations(b) *Food*

Insecticides

Pesticides

Seeds

Small-Scale Irrigation Equipment

Veterinary Medicines and Supplies

(c) *Clothes and Household Goods*

Bedding

Clothes

Cooking Utensils

Fabric

Personal Hygiene Items

Soap-Making Equipment

Weaving and Sewing Equipment

(d) *Shelter*

Building Materials

Hand Tools

(e) *Education*

Books

Individual School Supplies

School Furniture

Special Education Supplies and Equipment
for the Handicapped(f) *Basic Support Equipment and Supplies
Necessary To Operate and Administer the Dona-
tive Program*

Audio-Visual Aids for Training

Generators

Office Supplies and Equipment

**SUPPLEMENT NO. 3 TO PART 740—LI-
CENSE EXCEPTION ENC COUNTRY
GROUP**

Austria

Australia

Belgium

Czech Republic

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Denmark
Finland
France
Germany
Greece
Hungary
Ireland
Italy
Japan
Luxembourg
Netherlands
New Zealand
Norway
Poland
Portugal
Spain
Sweden
Switzerland
United Kingdom

[65 FR 62607, Oct. 19, 2000]

PART 742—CONTROL POLICY—CCL BASED CONTROLS

Sec.

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- 742.2 Proliferation of chemical and biological weapons.
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- 742.12 High performance computers.
- 742.13 Communications intercepting devices.
- 742.14 Significant items: hot section technology for the development, production or overhaul of commercial aircraft engines, components, and systems.
- 742.15 Encryption items.
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- 742.17 Exports of firearms to OAS member countries.
- 742.18 Chemical Weapons Convention (CWC or Convention).
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SUPPLEMENT NO. 1 TO PART 742—NON-PROLIFERATION OF CHEMICAL AND BIOLOGICAL WEAPONS

SUPPLEMENT NO. 2 TO PART 742—ANTI-TERRORISM CONTROLS: IRAN, NORTH KOREA, SYRIA AND SUDAN CONTRACT SANCTITY DATES AND RELATED POLICIES

SUPPLEMENT NO. 3 TO PART 742—HIGH PERFORMANCE COMPUTERS; SAFEGUARD CONDITIONS AND RELATED INFORMATION

SUPPLEMENT NO. 4 TO PART 742—KEY ESCROW OR KEY RECOVERY PRODUCTS CRITERIA

SUPPLEMENT NO. 5 TO PART 742 [RESERVED]

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SUPPLEMENT NO. 6 TO PART 742—GUIDELINES FOR SUBMITTING A CLASSIFICATION REQUEST FOR ENCRYPTION ITEMS

SUPPLEMENT NO. 7 TO PART 742 [RESERVED]

AUTHORITY: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, August 22, 2001; Notice of November 9, 2000, 65 FR 68063, 3 CFR, 2000 Comp., p. 408.

SOURCE: 61 FR 12786, Mar. 25, 1996, unless otherwise noted.

§ 742.1 Introduction.

In this part, references to the Export Administration Regulations (EAR) are references to 15 CFR chapter VII, subchapter C.

(a) *Scope.* This part describes all the reasons for control reflected in the Country Chart in Supplement No. 1 to part 738 of the EAR. In addition, it includes licensing requirements and licensing policies for the following items that are not reflected on the Country Chart: specially designed implements of torture, high performance computers, and communications intercepting devices. In addition to describing the reasons for control and licensing requirements and policies, this part describes any applicable contract sanctity provisions that may apply to specific controls and includes a description of any multilateral regime under which specific controls are maintained.

(b) *Reasons for control listed on the CCL not covered by this part.* This part describes the license requirements and the licensing policies for all the “Reasons for Control” that are listed on the Commerce Control List (CCL) except “Short Supply” and “U.N. Sanctions,” which do not appear on the Country Chart.

(1) *Short Supply.* ECCNs containing items subject to short supply controls (“SS”) refer the exporter to part 754 of the EAR. These ECCNs are: 0A980 (Horses for export by sea); 1C980 (certain inorganic chemicals); 1C981 (Crude petroleum, including reconstituted crude petroleum, tar sands, and crude shale oil); 1C982 (certain other petroleum products); 1C983 (Natural gas liquids and other natural gas derivatives);